

IFW



PATENT
Customer No. 22,852
Attorney Docket No. 02405.0167-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Mads Liendgaard Vigh et al.) Group Art Unit: 1623
)
Application No.: 09/255,655) Examiner: Everett NMN White
)
Filed: February 23, 1999)
)
For: USE OF D-TAGATOSE AS A) Confirmation No.: 8849
PREBIOTIC FOOD COMPONENT)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR RECONSIDERATION

In an advisory action mailed January 19, 2006, Applicants were advised that the Reply Brief filed January 10, 2005 had been entered into the record, and that the information disclosure statement filed October 21, 2005, was not considered because it failed "to comply with the provisions of 37 C.F.R. 1.97, 1.98 and MPEP § 609 because the information disclosure statement was filed after prosecution has been closed (after a reply brief to the Examiner's Answer)."

Reconsideration of the denial to consider the IDS filed October 21, 2005 is requested. The examiner and his supervisor have no basis to deny consideration of the October 21, 2005, IDS filed in compliance with 37 C.F.R. § 1.97(d), § 1.98 and MPEP 609.04(b)(III). The reference to prosecution being closed is not a good or sufficient reason to deny an IDS submitted under 37 C.F.R. § 1.97(d) - even though prosecution

is closed, an IDS must be considered by the Examiner if it is accompanied by the appropriate fee and a 37 C.F.R. § 1.97(e) certification (as was the case with the October 21, 2005 IDS).

Accordingly, it is respectfully requested that the documents cited in the October 21, 2005, IDS be considered by the Examiner before this application is passed to issue and the Examiner make that consideration of record in the appropriate manner. MPEP 609.05(b).

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 2, 2006

By: Charles E. Van Horn
Charles E. Van Horn
Reg. No. 40,266